

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MARTIN TANKLEFF,

Plaintiff,

v.

**THE COUNTY OF SUFFOLK, THERESA
and BRETT MCCREADY, as legal
successors of K. JAMES MCCREADY,
NORMAN REIN , CHARLES KOSCIUK,
ROBERT DOYLE, JOHN MCELHONE,
JOHN DOE POLICE OFFICERS #1-10,
RICHARD ROE, Suffolk County Employees
#1-10,**

Defendants.

**DECLARATION OF JULIA TORTI
IN OPPOSITION TO DEFENDANTS'**

**PARTIAL MOTION FOR
SUMMARY JUDGMENT
No. 09-CV-1207 (JS)(AYS)**

I, **JULIA TORTI**, am an attorney duly admitted to practice before this Court. I declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the following statements are true and correct.

1. I am an attorney with the law firm of Neufeld Scheck and Brustin, LLP, which represents Plaintiff Martin Tankleff. As such, I am familiar with the facts stated below and submit this declaration to place the relevant documents and information produced during discovery on the record in support of Plaintiff's opposition to Defendants' partial motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. Annexed hereto as Exhibit 1 is a true and correct copy of James Trainum's Expert Report dated February 9, 2015.

3. Annexed hereto as Exhibit 2 is a true and correct copy of John McElhone's 2011 Deposition Transcript dated December 2, 2011.

4. Annexed hereto as Exhibit 3 is a true and correct copy of National Law Journal Article, "When Suspects are Abused", dated June 11, 1979.

5. Annexed hereto as Exhibit 4 is a true and correct copy of the SCBA Report of the Civil Rights Committee on Allegations of Police Brutality in Suffolk County dated January 28, 1980.

6. Annexed hereto as Exhibit 5 is a true and correct copy of 1989 SIC Report.

7. Annexed hereto as Exhibit 6 is a true and correct copy of a Letter from Judge Namm to Governor Cuomo dated October 29, 1985.

8. Annexed hereto as Exhibit 7 is a true and correct copy of a Newsday Series on Suffolk County dated December 1986.

9. Annexed hereto as Exhibit 8 is a true and correct copy of John McElhone's 2014 Deposition dated October 30, 2014.

10. Annexed hereto as Exhibit 9 is a true and correct copy of K. James McCready's Deposition dated December 11, 2012 and December 12, 2012.

11. Annexed hereto as Exhibit 10 is a true and correct copy of Tim Palmbach's Expert Report dated February 9, 2015.

12. Annexed hereto as Exhibit 11 is a true and correct copy of James Crayne's Police Report dated September 7, 1988.

13. Annexed hereto as Exhibit 12 is a true and correct copy of Robert Baumann's Deposition dated July 18, 2014.

14. Annexed hereto as Exhibit 13 is a true and correct copy of Arlene Tankleff's Autopsy Diagram completed by Dr. Vernard Adams dated September 8, 1988.

15. Annexed hereto as Exhibit 14 is a true and correct copy of Arlene Tankleff's Autopsy Back View Photographs.

16. Annexed hereto as Exhibit 15 is a true and correct copy of the Watermelon Knife Photograph taken by the Medical Examiner.

17. Annexed hereto as Exhibit 16 is a true and correct copy of the Skull and Barbell Photograph.

18. Annexed hereto as Exhibit 17 is a true and correct copy of Seymour Tankleff's Autopsy Diagram dated October 17, 1988.

19. Annexed hereto as Exhibit 18 is a true and correct copy of Martin Tankleff's former criminal defense attorney Robert Gottlieb's Affidavit, dated August 17, 2015.

20. Annexed hereto as Exhibit 19 is a true and correct copy of Detective Mike Carmody's Handwritten Notes related to the Tankleff murder investigation.

21. Annexed hereto as Exhibit 20 is a true and correct copy of Mike Carmody's Deposition Transcript dated April 14, 2014.

22. Annexed hereto as Exhibit 21 is a true and correct copy of Charles Kosciuk's SIC Interview dated July 21, 2008.

23. Annexed hereto as Exhibit 22 is a true and correct copy of Detective John Pfalzgraf's SIC Interview dated July 22, 2008.

24. Annexed hereto as Exhibit 23 is a true and correct copy of Detective Robert Doyle's SIC Interview dated July 30, 2008.

25. Annexed hereto as Exhibit 24 is a true and correct copy of Suffolk County Police Department's missing person report for Jerry Steuerman, dated September 14, 1988.

26. Annexed hereto as Exhibit 25 is a true and correct copy of Detective John Pfalzgraf's Handwritten Notes related to the Tankleff murder investigation.

27. Annexed hereto as Exhibit 26 is a true and correct copy of Detective John Pfalzgraf's Police Report dated September 8, 1988.

28. Annexed hereto as Exhibit 27 is a true and correct copy of an Excerpt from Martin Tankleff's 440 Hearing featuring Ron Falbee's testimony from December 9, 2004.

29. Annexed hereto as Exhibit 28 is a true and correct copy of former Suffolk County Police Officer Robert Anderson's Handwritten Notes related to the Tankleff murder investigation.

30. Annexed hereto as Exhibit 29 is a true and correct copy of former Suffolk County Police Officer Robert Anderson's Deposition Transcript dated June 17, 2014.¹

31. Annexed hereto as Exhibit 30 is a true and correct copy of Jerry Steuerman's Deposition Transcript dated June 10, 2013.

32. Annexed hereto as Exhibit 31 is a true and correct copy of Todd Steuerman's Deposition Transcript dated September 23, 2013.

33. Annexed hereto as Exhibit 32 is a true and correct copy of Seymour Tankleff's Prehospital Care Report dated September 7, 1988.

34. Annexed hereto as Exhibit 33 is a true and correct copy of Arlene Tankleff's Prehospital Care Report dated September 7, 1988.

35. Annexed hereto as Exhibit 34 is a true and correct copy of Robert Baumann's Serology Log dated September 7, 1988.

¹ Plaintiff earlier sent defense counsel a courtesy copy of this exhibit list, in which two exhibits were labeled "Exhibit 29." This updated Exhibit list corrects that error by removing one of the exhibits, which is already included as an exhibit to Defendants' summary judgment papers.

36. Annexed hereto as Exhibit 35 is a true and correct copy of Daniel Gallagher's Police Report dated September 7, 1988.

37. Annexed hereto as Exhibit 36 is a true and correct copy of SCPD Marty Tankleff photo receipt dated September 8, 1988.

38. Annexed hereto as Exhibit 37 is a true and correct copy of Robert Baumann's Serology Report dated November 8, 1988.

39. Annexed hereto as Exhibit 38 is a true and correct copy of Seymour Tankleff's Autopsy Report dated October 7, 1988.

40. Annexed hereto as Exhibit 39 is a true and correct copy of John McNamara's Statements to the NY Attorney General dated May 15, 2008.

41. Annexed hereto as Exhibit 40 is a true and correct copy of the NY Attorney General's Motion to Dismiss the Indictments filed June 30, 2008.

42. Annexed hereto as Exhibit 41 is a true and correct copy of the NYTimes Article, "Car Dealer Gets 5 Years for Bilking G.M." dated August 10, 1996.

43. Annexed hereto as Exhibit 42 is a true and correct copy of a Diagram of the Crime Scene undated.

44. Annexed hereto as Exhibit 43 is a true and correct copy of Dr. Bonnie Schnitta's Affidavit dated December 20, 2013.

45. Annexed hereto as Exhibit 44 is a true and correct copy of Robert Genna's Lab Report dated January 12, 1989.

46. Annexed hereto as Exhibit 45 is a true and correct copy of a Crime Scene Photograph of Arlene Tankleff.

47. Annexed hereto as Exhibit 46 is a true and correct copy of the SCPD's Investigation Guide.
48. Annexed hereto as Exhibit 47 is a true and correct copy of a January 4, 2008 Press Release by Attorney General Schneiderman's office: Governor Spitzer Announces Appt of Special Prosecutor to Investigate Tankleff Murders.
49. Annexed hereto as Exhibit 48 is a true and correct copy of an ABC7 article, "Charges Against MT to be Dropped" dated January 2, 2008.
50. Annexed hereto as Exhibit 49 is a true and correct copy of Detective Charles Kosciuk's Deposition Transcript dated October 2, 2013.
51. Annexed hereto as Exhibit 50 is a true and correct copy of Detective K. James McCready's Handwritten Notes related to the Tankleff murder investigation.
52. Annexed hereto as Exhibit 51 is a true and correct copy of Detective Norman Rein's Handwritten Notes related to the Tankleff murder investigation.
53. Annexed hereto as Exhibit 52 is a true and correct copy of a letter from Edward Jablonski to Robert Gottlieb dated October 12, 1988.²
54. Annexed hereto as Exhibit 53 is a true and correct copy of a letter from Robert Gottlieb to Edward Jablonski dated September 19, 1988.

² Exhibits 52 and 53 were not cited to in Plaintiff's 56.1 Counter-Statement. However, given that the documents provide factual support for Plaintiff's response to an argument that was raised after the Counter-Statement was provided to opposing counsel, Plaintiff is including these exhibits with opposing counsel's consent.

Dated: August 17, 2016
New York, New York

By:

/s/ Julia Torti

Julia Torti
NEUFELD SCHECK & BRUSTIN, LLP
99 Hudson St., 8th Floor
New York, NY 10013
(212) 965-9081

One of the Attorneys for Plaintiff Martin Tankleff

CERTIFICATE OF SERVICE

I, Madhu Srikantha, hereby certify that a true and accurate copy of the foregoing Declaration of Julia Torti in *Opposition to Defendants' Partial Motion for Summary Judgment* served *via* ECF on August 17, 2016 upon all counsel via ECF:

/s/ Madhu Srikantha
Paralegal